

# ORLEANS CHARTER REVIEW COMMITTEE

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**Jon Fuller, Chair**

**Patricia Fallender, Vice-Chair**

**Gail Meyers Lavin, Clerk**

**Mark Berson, Member**

**Robin Hubbard, Member**

**Maxine Minkoff, Member**

**Walter North, Member**

**Michael Herman, Select Board Liaison**

# CHARTER REVIEW COMMITTEE PROCESS

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- ❑ Outreach to Town Staff, Multi-Member Bodies, and Community members through survey, letters, press releases and dedicated email address to receive suggestions. All suggestions put in database and reviewed.
- ❑ Annual Town Meeting in May 2022 voted in favor of ten Charter articles, accepted by the Attorney General to be on the ballot in May 2023 for final vote.

# PURPOSE OF ARTICLES

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## **MAKE THE CHARTER MORE USER-FRIENDLY**

- Add to Definitions and move all sections of Chapter 10 to Chapter 1**
- Create Code of Conduct and provide more details in Emergency Planning**
- Continue to clarify language, sections & responsibilities as recommended and/or researched by the CRC**

# DRAFT ARTICLE A

## Chapter 1

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- § 2. Form of Government, Purpose, and Effective Date 1-2-3 NEW The purpose of this Charter is: to secure citizen control of local affairs; to establish and maintain efficient and financially sound government; and to ensure that elected and appointed officials are accountable to the electorate.
  
- § 7. ~~Purpose 1 7 1~~ ~~The purpose of this Charter is: to secure citizen control of local affairs; to establish and maintain efficient and financially sound government; and to ensure that elected and appointed officials are accountable to the electorate.~~

# DRAFT ARTICLE A cont'd p 2

## Chapter 1

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- ❑ **Sections 1-3-4** deletes legacy language - “agencies in existence on January 1, 1988,” and substitutes the term “multi-member bodies” used for volunteer members and used everywhere else in the Charter.
- ❑ **1-3-5 and 1-3-6** change the term “agency” to the more current term “department.” In each case, the sections refer to how the government divisions and its employees are defined, which is unchanged.

# DRAFT ARTICLE A cont'd p 3

## Chapter 1 Explanation

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- ❑ The sections in the next slide have no changes of language but would move from Chapter 10, which would no longer exist, to Chapter 1. It would put the **Charter Operations and Maintenance sections** at the end of Chapter 1, and also move the **Definitions** to Chapter 1 as suggested by residents to be more useful to readers.
- ❑ The **Definitions** have added the terms “**news outlet**” as used to update “newspaper/s” as you voted in the Warrant section in May 2022.

# DRAFT ARTICLE A cont'd p 4

## Chapter 1

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### Existing Chapter 10 heading becomes Section 7

10 -1-1 Charter Amendment becomes Section 1-7-1

10 -2-1 Transition Requirements becomes Section 1-7-2

10 -3-1 Enforcement becomes Section 1-7-3

### Definitions in 10-4-1 (a) through (g) will become section 8, and one new definition is added as (h).

# DRAFT ARTICLE A cont'd p 5

## NEW DEFINITION

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- (h) News Outlet. The phrase “news outlet” shall mean any entity which regularly provides, produces, and/or publishes notices, information, and stories about the Town of Orleans, by way of newspapers/e-newspapers, the Town website, and/or the Orleans Government Access Cable Television Channel.



# ***RATIONALE - DRAFT ARTICLE A p 6***

## ***Chapter 1***

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□ **RATIONALE:** Significant input from Orleans citizens indicated that the Orleans Home Rule Charter should be more “user-friendly.” An extensive review of Chapter 1 and Chapter 10 led to the decision to combine these two chapters. These chapters include sections about the Charter’s purpose; how the Charter guides Town government; Charter Operations and Maintenance; and Definitions.

Moving the Charter purpose from the end of the current Chapter 1 to Section 2 and including all of Chapter 10, with an additional definition as Sections 7 and 8, will provide a more coherent understanding of subsequent chapters.

# DRAFT ARTICLE B

## Specific Provisions to Prevail

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### ☐ § 5. Specific Provisions to Prevail

1-5-2 The Charter shall govern whenever there exists a conflict between Charter provisions and the provisions of Town by-laws, rules and/or regulations. All Town by-laws, rules and/or regulations not superseded by this Charter shall remain in force.

☐ **RATIONALE:** The Orleans Home Rule Charter is the governing document for our Town, and it exists with an extensive Town Code. Since there is the potential for conflict between specific Charter provisions and Town by-laws, rules and/or regulations, Section 1-5-2 makes it clear that the Charter prevails if there is a conflict.

# DRAFT ARTICLE C

## Code of Conduct

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### □ 3-2-4 (NEW SECTION) CODE OF CONDUCT

The Select Board shall issue a Code of Conduct policy for all Town Officers, members of multi-member bodies and citizens as defined by law and/or regulation relating to the practices, procedures, and behavior for conducting Town business.

The policy shall be reviewed annually by the Select Board at the beginning of each fiscal year, published on the Town website, and presented to Chairs and multi-member bodies in accordance with Section 6-1-4 of this Charter.

# ***RATIONALE – DRAFT ARTICLE C p 2 Code of Conduct***

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- **RATIONALE:** It is important that Town Business is conducted for the benefit of its citizens and allows for all to participate and share ideas in a manner of cooperation and civility. Therefore, the Charter shall ensure that the Select Board, in its policy role, provides a Code of Conduct to which all Town officers, multi-member bodies, and citizens are expected to adhere.

# DRAFT ARTICLE D

## Emergency Plan

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- **3-3-4 EMERGENCY PLAN. In coordination with the Fire Chief, ~~The~~ the Board shall develop and ~~annually~~ at least biennially update the Town's Emergency Plan and publish appropriate emergency response guidance to its citizens on the Town website and by any other means.**

# ***RATIONALE - DRAFT ARTICLE D Emergency Plan***

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- ***RATIONALE:*** The Town of Orleans currently has a Town Emergency Plan under the direction of the Orleans Fire Chief and includes the participation of all significant Town employees and regional, State, and Federal support needed to direct the response to emergencies or disasters. After these past few years of dealing with a major health emergency, it is important that a Comprehensive Emergency Plan is provided, and information published for all citizens to know what to do in case of an emergency or disaster.

# DRAFT ARTICLE E

## Chapter 4

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### □ § 1 Appointment

4-1-2 The Select Board in its search for a Town Manager, shall advertise in the International City Management Association (I.C.M.A.) Newsletter or similar professional publication and in at least two ~~newspapers~~ news outlets having state-wide or regional circulation.

# DRAFT ARTICLE E cont'd p 2

## Chapter 4

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- **§ 2 Qualifications 4-2-1:** The Town Manager shall be appointed on the basis of educational, executive, and administrative qualifications and experience. The educational qualifications shall consist of at least a bachelor's degree, preferably in public administration, granted by an accredited degree-granting college or university. The professional experience shall include at least five years of prior full-time compensated executive service in public or business administration. Alternatively, at least ~~two~~ three years of prior full-time compensated executive service in public or business administration, and a master's degree in an appropriate discipline shall qualify an applicant.



# ***RATIONALE – DRAFT ARTICLE E cont'd p 3 - Chapter 4***

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- ***RATIONALE:*** The appointment of a Town Manager with experience to administer a complicated Town government has significant importance to the future of the Town. It is recommended to increase the alternative requirement from two years executive service to three years with a master's degree. Also, when advertising for a new Town Manager, the use of “news outlets” provides for additional ways to publicize the search.

# DRAFT ARTICLE F

## CPC Language to Delete

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- ~~A Community Preservation Committee of nine members serving three-year overlapping terms shall be appointed as follows: three members by the Select Board; one member by the Park Commissioners; one member by the Planning Board; one member by the Conservation Commission; one member by the Historical Commission; one member by the Housing Authority; and one member by the Open Space Committee.~~
- (New language recommended to mirror the order of By-law § 81.1 and add a member of the Recreation Advisory Committee.)*

# DRAFT ARTICLE F cont'd p 2

## CPC Language Substitution

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**6-11-1 “A Community Preservation Committee of nine members serving three-year overlapping terms shall be appointed and shall include the following: one member of the Conservation Commission as designated annually by the Conservation Commission; one member of the Historical Commission as designated annually by the Historical Commission; one member of the Planning Board as designated annually by the Planning Board; one member of the Park Commissioners as designated annually by the Park Commission; one member of the Open Space Committee as designated annually by the Open Space Committee; one member of the Housing Authority as designated annually by the Housing Authority; and one member of the Recreation Advisory Committee as designated annually by the Recreational Advisory Committee. The two remaining members shall be appointed by the Select Board.”**

# DRAFT ARTICLE F cont'd p 3

## Alternative CPC Language Substitution

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- ❑ **6-11-1** A Community Preservation Committee shall consist of nine members. The membership shall include the following: one member of the Conservation Commission as designated annually by the Conservation Commission; one member of the Historical Commission as designated annually by the Historical Commission; one member of the Planning Board as designated annually by the Planning Board; one member of the Park Commissioners as designated annually by the Park Commission; one member of the Open Space Committee as designated annually by the Open Space Committee; one member of the Housing Authority as designated annually by the Housing Authority; and one member of the Recreation Advisory Committee as designated annually by the Recreational Advisory Committee. The two remaining members shall be appointed by the Select Board for three (3) year overlapping terms.

# ***RATIONALE - DRAFT ARTICLE F cont'd p 4 CPC Language Substitution***

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## ***RATIONALE:***

- ❑ During the CRC's research and its discussions with Town multi-member bodies, it became clear that recreational activities are of significant importance to the Town and that this should be reflected in the composition of the Community Preservation Committee.
- ❑ This article would add an appointment of the Recreation Advisory Committee as shown and change the number of appointments by the Select Board to two in order for the CRC to remain at nine members.  
***(NOTE: See DRAFT ARTICLE G.)***
- ❑ The CRC recommends amending the Town By-law to add an appointment of the Recreation Advisory Committee as shown and for the Select Board to appoint two members to serve on the Community Preservation Committee.

# DRAFT ARTICLE G

## § 3 Responsibility for Appointments

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- **3-9-1** The Board shall have the power to appoint (a) a Town Manager as provided in Chapter 4; (b) a Town Counsel; ~~(c) A Town Accountant/Director of Municipal Finance;~~ (c) a Police Chief; (d) a Fire Chief; (e) three members of a Board of Registrars of Voters for overlapping three-year terms; (f) Election Officers; (g) five members and three associate members of a Zoning Board of Appeals for overlapping three-year terms; (h) five members and two associate members of a Board of Water and Sewer Commissioners for overlapping terms; and (i) three two members of a Community Preservation Committee.

**NOTE: Section (i) above: *Please see prior DRAFT ARTICLE F p 4, second bullet, for rationale to change from three to two appointments to the CPC by the Board.***

# DRAFT ARTICLE G cont'd p 2

## § 4 Responsibilities for Appointments

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- 4-4-1 ~~Subject to the approval of the Select Board,~~ The Town Manager shall appoint and, on the basis of merit and fitness alone, and except as otherwise is provided by general law, Charter, or personnel By-laws, may suspend or remove: a Town Clerk, ~~who need not be a town resident~~; a **Director of Municipal Finance**/Town Accountant; a ~~Town~~ **Treasurer/Tax** Collector/~~Treasurer~~; a full-time professional Assessor who shall not be a member of the Board of Assessors; **a Director of Planning and Community Development; a Conservation Agent who shall not be a member of the Conservation Commission;** and a Director of Public Works and Natural Resources. The Town Manager may also appoint other positions, subject to the availability of funds. **All such appointments and removals may be reversed by an affirmative vote of at least four members of the Select Board taken within 14 days.**

# DRAFT ARTICLE G cont'd p 3

## § 4 Department of Municipal Finance

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- ❑ **4-4-3 NEW:** There shall be a Department of Municipal Finance under the direct control and supervision of the Town Manager. The Town Manager shall appoint a Director of Municipal Finance/Accountant who shall be the Chief Financial Officer of the Town and be responsible for the supervision and coordination of the Treasurer/Tax Collector and Assessor.
- ❑ **Rationale:** Since a Special Act was passed to enable a non-resident to be the Town Clerk, this language has been deleted. The positions of Director of Planning and Community Development and the Conservation Agent are added to this section to correct their omission, since they are currently appointments made by the Town Manager. It is recommended that the Charter should codify that the Town has a Department of Municipal Finance under the direct control and supervision of the Town Manager. This Department shall be led by the Director of Municipal Finance/Town Accountant, appointed by the Town Manager instead of the Select Board. Any appointments, suspensions or removals concerning these positions may be reversed within fourteen days if voted by at least four members of the Board.



# DRAFT ARTICLE H

## Moderator may designate

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- ❑ **5-3-1** A Moderator shall be elected for a three-year term. The Moderator shall: (a) preside at all Town Meetings; (b) appoint the members of the Finance Committee; (c) appoint all ad hoc committees of the Town Meeting as provided in clause 2-8-2; (d) preside at any hearing called to discuss the suspension or removal of the Town Manager or designate a professional neutral hearing officer to perform this duty; (e) appoint two representatives to the Cape Cod Regional Technical High School Committee; and (f) advertise impending appointments as provided in clause 7-2-2; or take any other action relative thereto.
- ❑ **4-9-4** The Moderator shall preside at any such hearing or designate a professional neutral hearing officer. The rules of evidence shall not apply to the removal hearing process and/or proceedings.

# ***RATIONALE - DRAFT ARTICLE H p 2***

## ***Moderator may designate***

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- ***RATIONALE:*** The current Charter states that the Moderator shall preside at any hearing called to discuss the suspension or removal of the Town Manager. It is recommended that the Moderator have the option to designate a professional neutral hearing officer to perform this duty.

# DRAFT ARTICLE I

## Title Change and Swearing In of Elected Officials

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- ❑ CHAPTER 5 Elected Town Boards Multi-Member Bodies and Officers
- ❑ 5-1-4 Any person duly elected to any office or multi-member body shall take up the duties of said office immediately provided that each person first shall have been sworn to the faithful performance of said duties by the Town Clerk.
- ❑ ~~§ 7 Time of Taking Office~~  
~~7-7-1 Any person duly elected to any office or multi-member body shall take up the duties of said office immediately following said certification.~~  
**Current § 8 Recall of Elective Officers** in Chapter 7 shall be renumbered to **§ 7 Recall of Elective Officers**. Current 7-8-1 through 7-8-8 shall become 7-7-1, 7-7-2, 7-7-3, 7-7-4, 7-7-5, 7-7-6, 7-7-8 with **NO CHANGE OF LANGUAGE**.

# ***RATIONALE - DRAFT ARTICLE I p 2***

## ***Title Change and Swearing in of Elected Officials***

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### **□ RATIONALE:**

The Title proposal is to delete the term “Boards” and change it to “Multi-Member Bodies” as used elsewhere.

It is recommended that the swearing in of elected officials Section 7-1-1 should appear in Chapter 5 and be written to reflect that those elected shall be sworn in by the Town Clerk. The removal of 7-1-1 from Chapter 7 also requires that all of Chapter 7 Section 8 Recall of Elective Officers must be renumbered.

# DRAFT ARTICLE J

## Cooperation with Town Multi-Member Bodies

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- ❑ 9-1-4 The Planning Board shall cooperate closely with the Conservation Commission, the Board of Health, ~~and~~ the Board of Water and Sewer Commissioners, and any other multi-member bodies that the Planning Board's decisions may impact.
  
- ❑ 6-6-2 NEW The Planning Board shall cooperate closely with the Conservation Commission, the Board of Health, the Board of Water and Sewer Commissioners, and any other multi-member bodies that the Planning Board's decisions may impact.

# ***RATIONALE - DRAFT ARTICLE J p 2***

## ***Cooperation with Multi-Member Bodies***

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### **□ RATIONALE:**

The purpose of these changes is to add a Planning Board section to Chapter 6 to correspond to existing section 9-1-4 and to encourage efficiency in Town initiatives through coordination and collaboration among different multi-member bodies.

# DRAFT ARTICLE K

## Chapter 8 – Finance Committee

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- **8-1-1 It is the responsibility of the Finance Committee to independently examine and analyze the Town’s financial affairs, including proposed budgets, the Capital Improvements Plan and all other proposals which would have a financial impact; and to inform the citizens of the Town of its findings and recommendations.**
- ~~□ 8-1-6 It is the responsibility of the Finance Committee to independently examine and analyze the Town’s financial affairs, including proposed budgets, the Capital Improvements Plan and all other proposals which would have a financial impact; and to inform the citizens of the Town of its findings and recommendations.~~

# DRAFT ARTICLE K cont'd p 2

## Chapter 8 – Finance Committee

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- **8-1-2** The Finance Committee, appointed by the Town Moderator, shall consist of nine members and two associate members appointed for three-year overlapping terms, arranged so that the terms of at least three members shall expire at the end of the 15<sup>th</sup> day of the fiscal year, provided that no more than one associate member's term expires in any given year.



# DRAFT ARTICLE K – cont'd p 3

## Chapter 8 – Finance Committee

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- ❑ **8-1-3** Any person duly appointed to the Finance Committee shall take up the duties of the office ~~upon the first day of the fiscal year,~~ **on the 16<sup>th</sup> day of the fiscal year**, provided that ~~such~~ **said** person shall have been sworn to the faithful performance of said person's duties by the Town Clerk.
- ❑ Current 8-1-3 shall be **renumbered to 8-1-4** "Vacancies..."  
No change of language
- ❑ Current 8-1-4 shall be **renumbered to 8-1-5** "Any person..."  
No change of language
- ❑ Current 8-1-5 shall be **renumbered to 8-1-6** "No member..."  
No change of language

# ***RATIONALE DRAFT ARTICLE K cont'd p 4***

## ***Chapter 8 - Finance Committee***

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- ❑ ***RATIONALE:*** It is proposed to move the original Section 8-1-6 to become Section 8-1-1 with no change of language. The responsibility of the Finance Committee will now appear as Section 8-1-1. The Finance Committee requested that, due to the extensive learning curve for new members, there be two associate members added to the Committee so that associate members would be prepared to serve as substitutes.

Since the Finance Committee reviews the final year-end financial records, usually available by the 15<sup>th</sup> day of the fiscal year, a member's term shall end on the 15<sup>th</sup> day of the fiscal year and any new appointees would begin on the 16<sup>th</sup> day of the fiscal year. The current sections 8-1-3 through 8-1-5 will be renumbered as indicated above with no change of language.

# DRAFT ARTICLE L

## Chapter 9 – Planning and the Environment

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- ❑ **9-1-3** The Planning Board may make recommendations to the Town Manager, the Select Board, and the Town Meeting on all matters concerning the physical, economic, and environmental development of the Town.
  
- ❑ **9-2-1** The Planning Board shall be responsible for the development and ~~periodic~~ updating of the Orleans Comprehensive Plan. The Plan shall be updated every five (5) years.
  
- ❑ **9-2-3** The Planning Board shall present such proposed updated Plan at a public hearing and may revise it following such hearing for presentation to the Town Meeting for adoption. ~~Such portions of the Plan as are considered ready shall be presented to the Town Meeting for adoption. The revisions may be amended on the floor of Town Meeting.~~

# ***RATIONALE - DRAFT ARTICLE L cont'd p 2***

## ***Chapter 9 Planning and the Environment***

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### ***RATIONALE:***

- ❑ **9-1-3** was modified to change the order of the parties mentioned to reflect the order in which the recommendations of the Planning Board would be received.
- ❑ **9-2-1** adds a specific time frame of five years rather than using the term “periodic.” This provision encourages the Planning Board to adopt a process that includes a review and update of the Plan that would be on-going and that specific parts of the Plan be scheduled for review at intervals determined by the Planning Board.
- ❑ **9-2-3** was modified so that if there are concerns raised during Town Meeting about the proposed updated Plan, these changes would be duly and carefully considered by the Planning Board in the future.

# CHAPTER 10

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- Since all Chapter 10 sections have been moved to Chapter 1, the amended Charter would now have nine chapters.